

**Michelle Anne Bholat, M.D., Chair**  
**Panel B**

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8 **BEFORE THE**  
9 **MEDICAL BOARD OF CALIFORNIA**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **YANIRA PEREZ, M.D.**  
14 **850 SOUTH ATLANTIC BLVD., STE 305**  
15 **MONTEREY PARK, CA 91754-4730**

16 **Physician's and Surgeon's Certificate No.**  
17 **A119819,**

18 Respondent.

Case No. 800-2016-019998

OAH No. 2016080631

19 **STIPULATED SETTLEMENT AND**  
20 **DISCIPLINARY ORDER**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board  
25 of California (Board). She brought this action solely in her official capacity and is represented in  
26 this matter by Xavier Becerra, Attorney General of the State of California, by Brian D. Bill,  
27 Deputy Attorney General.

28 2. Respondent YANIRA PEREZ, M.D. (Respondent) is represented in this proceeding  
by attorney Richard V. Zavala, Esq., whose address is: Attorney at Law 3105 Sedona Court,  
Ontario, CA 91764.

3. On or about January 20, 2012, the Board issued Physician's and Surgeon's Certificate  
No. A119819 to YANIRA PEREZ, M.D. (Respondent). The Physician's and Surgeon's

1 Certificate was in full force and effect at all times relevant to the charges brought in Accusation  
2 No. 800-2016-019998, and will expire on June 30, 2017, unless renewed.

3 JURISDICTION

4 4. Accusation No. 800-2016-019998 was filed before the Board, and is currently  
5 pending against Respondent. The Accusation and all other statutorily required documents were  
6 properly served on Respondent on May 18, 2016. Respondent timely filed her Notice of Defense  
7 contesting the Accusation.

8 5. A copy of Accusation No. 800-2016-019998 is attached as exhibit A and incorporated  
9 herein by reference.

10 ADVISEMENT AND WAIVERS

11 6. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in Accusation No. 800-2016-019998. Respondent has also carefully read,  
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and  
14 Disciplinary Order.

15 7. Respondent is fully aware of her legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
17 the witnesses against her; the right to present evidence and to testify on her own behalf; the right  
18 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
19 documents; the right to reconsideration and court review of an adverse decision; and all other  
20 rights accorded by the California Administrative Procedure Act and other applicable laws.

21 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
22 every right set forth above.

23 CULPABILITY

24 9. Respondent understands and agrees that the charges and allegations in Accusation  
25 No. 800-2016-019998, if proven at a hearing, constitute cause for imposing discipline upon her  
26 Physician's and Surgeon's Certificate.

27 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
28 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest  
2 those charges.

3 11. Respondent agrees that her Physician's and Surgeon's Certificate is subject to  
4 discipline and she agrees to be bound by the Board's probationary terms as set forth in the  
5 Disciplinary Order below.

6 RESERVATION

7 12. The admissions made by Respondent herein are only for the purposes of this  
8 proceeding, or any other proceedings in which the Medical Board of California or other  
9 professional licensing agency is involved, and shall not be admissible in any other criminal or  
10 civil proceeding.

11 CONTINGENCY

12 13. This stipulation shall be subject to approval by the Medical Board of California.  
13 Respondent understands and agrees that counsel for Complainant and the staff of the Medical  
14 Board of California may communicate directly with the Board regarding this stipulation and  
15 settlement, without notice to or participation by Respondent or her counsel. By signing the  
16 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek  
17 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails  
18 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary  
19 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal  
20 action between the parties, and the Board shall not be disqualified from further action by having  
21 considered this matter.

22 14. The parties understand and agree that Portable Document Format (PDF) and facsimile  
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
24 signatures thereto, shall have the same force and effect as the originals.

25 15. In consideration of the foregoing admissions and stipulations, the parties agree that  
26 the Board may, without further notice or formal proceeding, issue and enter the following  
27 Disciplinary Order:

28 //

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A119819 issued to Respondent YANIRA PEREZ, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **PROFESSIONALISM PROGRAM (ETHICS COURSE)**. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a professionalism program, that meets the requirements of Title 16, California Code of Regulations (CCR) section 1358.1. Respondent shall participate in and successfully complete that program. Respondent shall provide any information and documents that the program may deem pertinent. Respondent shall successfully complete the classroom component of the program not later than six (6) months after Respondent's initial enrollment, and the longitudinal component of the program not later than the time specified by the program, but no later than one (1) year after attending the classroom component. The professionalism program shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

A professionalism program taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the program would have been approved by the Board or its designee had the program been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the program or not later than 15 calendar days after the effective date of the Decision, whichever is later.

2. **NOTIFICATION**. Within seven (7) days of the effective date of this Decision, the Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the Chief Executive Officer at every hospital where privileges or membership are extended to Respondent, at any other facility where Respondent engages in the practice of medicine, including all physician and locum tenens registries or other similar agencies, and to the Chief Executive Officer at every insurance carrier which extends malpractice insurance coverage to

Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days.

This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

3. SUPERVISION OF PHYSICIAN ASSISTANTS AND ADVANCED PRACTICE NURSES. During probation, Respondent is prohibited from supervising physician assistants and advanced practice nurses.

4. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules governing the practice of medicine in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

5. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Board, stating whether there has been compliance with all the conditions of probation.

Respondent shall submit quarterly declarations not later than 10 calendar days after the end of the preceding quarter.

6. GENERAL PROBATION REQUIREMENTS.

Compliance with Probation Unit

Respondent shall comply with the Board's probation unit.

Address Changes

Respondent shall, at all times, keep the Board informed of Respondent's business and residence addresses, email address (if available), and telephone number. Changes of such addresses shall be immediately communicated in writing to the Board or its designee. Under no circumstances shall a post office box serve as an address of record, except as allowed by Business and Professions Code section 2021(b).

Place of Practice

Respondent shall not engage in the practice of medicine in Respondent's or patient's place of residence, unless the patient resides in a skilled nursing facility or other similar licensed facility.

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1        License Renewal

2        Respondent shall maintain a current and renewed California physician's and surgeon's  
3 license.

4        Travel or Residence Outside California

5        Respondent shall immediately inform the Board or its designee, in writing, of travel to any  
6 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty  
7 (30) calendar days.

8        In the event Respondent should leave the State of California to reside or to practice,  
9 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of  
10 departure and return.

11        7.    INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be  
12 available in person upon request for interviews either at Respondent's place of business or at the  
13 probation unit office, with or without prior notice throughout the term of probation.

14        8.    NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or  
15 its designee in writing within 15 calendar days of any periods of non-practice lasting more than  
16 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is  
17 defined as any period of time Respondent is not practicing medicine as defined in Business and  
18 Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month in direct  
19 patient care, clinical activity or teaching, or other activity as approved by the Board. If  
20 Respondent resides in California and is considered to be in non-practice, Respondent shall  
21 comply with all terms and conditions of probation. All time spent in an intensive training  
22 program which has been approved by the Board or its designee shall not be considered non-  
23 practice and does not relieve Respondent from complying with all the terms and conditions of  
24 probation. Practicing medicine in another state of the United States or Federal jurisdiction while  
25 on probation with the medical licensing authority of that state or jurisdiction shall not be  
26 considered non-practice. A Board-ordered suspension of practice shall not be considered as a  
27 period of non-practice.

28        In the event Respondent's period of non-practice while on probation exceeds 18 calendar

1 months, Respondent shall successfully complete the Federation of State Medical Boards's Special  
2 Purpose Examination, or, at the Board's discretion, a clinical competence assessment program  
3 that meets the criteria of Condition 18 of the current version of the Board's "Manual of Model  
4 Disciplinary Orders and Disciplinary Guidelines" prior to resuming the practice of medicine.

5 Respondent's period of non-practice while on probation shall not exceed two (2) years.

6 Periods of non-practice will not apply to the reduction of the probationary term.

7 Periods of non-practice for a Respondent residing outside of California will relieve  
8 Respondent of the responsibility to comply with the probationary terms and conditions with the  
9 exception of this condition and the following terms and conditions of probation: Obey All Laws;  
10 General Probation Requirements; and Quarterly Declarations.

11 9. COMPLETION OF PROBATION. Respondent shall comply with all financial  
12 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the  
13 completion of probation. Upon successful completion of probation, Respondent's certificate shall  
14 be fully restored.

15 10. VIOLATION OF PROBATION. Failure to fully comply with any term or condition  
16 of probation is a violation of probation. If Respondent violates probation in any respect, the  
17 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and  
18 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,  
19 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have  
20 continuing jurisdiction until the matter is final, and the period of probation shall be extended until  
21 the matter is final.

22 11. LICENSE SURRENDER. Following the effective date of this Decision, if  
23 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy  
24 the terms and conditions of probation, Respondent may request to surrender his or her license.  
25 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in  
26 determining whether or not to grant the request, or to take any other action deemed appropriate  
27 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent  
28 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its



1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
3 application shall be treated as a petition for reinstatement of a revoked certificate.

4 12. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
5 with probation monitoring each and every year of probation, as designated by the Board, which  
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
7 California and delivered to the Board or its designee no later than January 31 of each calendar  
8 year.

9 ACCEPTANCE

10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
11 discussed it with my attorney, Richard V. Zavala, Esq. I understand the stipulation and the effect  
12 it will have on my Physician's and Surgeon's Certificate No. A119819. I enter into this Stipulated  
13 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
14 bound by the Decision and Order of the Medical Board of California.

15  
16 DATED: \_\_\_\_\_

17 YANIRA PEREZ, M.D.  
18 *Respondent*

19 I have read and fully discussed with Respondent YANIRA PEREZ, M.D. the terms and  
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
21 I approve its form and content.

22 DATED: \_\_\_\_\_

23 RICHARD V. ZAVALA, ESQ.  
24 *Attorney for Respondent*

25 //

26 //

27 //

28 //


1 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject  
2 to the terms and conditions of probation. If Respondent re-applies for a medical license, the  
3 application shall be treated as a petition for reinstatement of a revoked certificate.

4 12. PROBATION MONITORING COSTS. Respondent shall pay the costs associated  
5 with probation monitoring each and every year of probation, as designated by the Board, which  
6 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of  
7 California and delivered to the Board or its designee no later than January 31 of each calendar  
8 year.

9 ACCEPTANCE

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11 discussed it with my attorney, Richard V. Zavala, Esq. I understand the stipulation and the effect  
12 it will have on my Physician's and Surgeon's Certificate No. A119819. I enter into this Stipulated  
13 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
14 bound by the Decision and Order of the Medical Board of California.


15  
16 DATED: 7/17/17

  
17 YANIRA PEREZ, M.D.  
18 Respondent

PEREZ MD

19 I have read and fully discussed with Respondent YANIRA PEREZ, M.D. the terms and  
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
21 I approve its form and content.

22 DATED: 7/17/17

  
23 RICHARD V. ZAVALA, ESQ.  
24 Attorney for Respondent

25 //

26 //

27 //

28 //


ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
submitted for consideration by the Medical Board of California.

Dated: 7-17-2017

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
JUDITH T. ALVARADO  
Supervising Deputy Attorney General

  
BRIAN D. BILL  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 800-2016-019998**

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*Attorneys for Complainant*

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 800-2016-019998

**Yanira Perez, M.D.**  
**15115 Amar Road**  
**La Puente, CA 91744**

**A C C U S A T I O N**

**Physician's and Surgeon's Certificate**  
**No. A119819,**

Respondent.

Complainant alleges:

**PARTIES**

1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official capacity as the Executive Director of the Medical Board of California, Department of Consumer Affairs (Board).

2. On or about January 20, 2012, the Medical Board issued Physician's and Surgeon's Certificate Number A119819 to Yanira Perez, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought herein and will expire on June 30, 2017; unless renewed.

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## JURISDICTION

3. This Accusation is brought before the Medical Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code states:

"The board shall have the responsibility for the following:

"(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

"(b) The administration and hearing of disciplinary actions.

"(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

"(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

"(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

"(f) Approving undergraduate and graduate medical education programs.

"(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

"(h) Issuing licenses and certificates under the board's jurisdiction.

"(i) Administering the board's continuing medical education program."

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the board deems proper.

6. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

1       "(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the  
2 violation of, or conspiring to violate any provision of this chapter.

3       "(b) Gross negligence.

4       "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or  
5 omissions. An initial negligent act or omission followed by a separate and distinct departure from  
6 the applicable standard of care shall constitute repeated negligent acts.

7       "(1) An initial negligent diagnosis followed by an act or omission medically appropriate  
8 for that negligent diagnosis of the patient shall constitute a single negligent act.

9       "(2) When the standard of care requires a change in the diagnosis, act, or omission that  
10 constitutes the negligent act described in paragraph (1), including, but not limited to, a  
11 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the  
12 applicable standard of care, each departure constitutes a separate and distinct breach of the  
13 standard of care.

14       "(d) Incompetence.

15       "(e) The commission of any act involving dishonesty or corruption that is substantially  
16 related to the qualifications, functions, or duties of a physician and surgeon.

17       "(f) Any action or conduct which would have warranted the denial of a certificate.

18       "(g) The practice of medicine from this state into another state or country without meeting  
19 the legal requirements of that state or country for the practice of medicine. Section 2314 shall not  
20 apply to this subdivision. This subdivision shall become operative upon the implementation of  
21 the proposed registration program described in Section 2052.5.

22       "(h) The repeated failure by a certificate holder, in the absence of good cause, to attend and  
23 participate in an interview scheduled by Board. This subdivision shall only apply to a certificate  
24 holder who is the subject of an investigation by the board."

25       7.     Section 2242 of the Code states:

26       "(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022  
27 without an appropriate prior examination and a medical indication, constitutes unprofessional  
28 conduct.

1       "(b) No licensee shall be found to have committed unprofessional conduct within the  
2 meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of  
3 the following applies:

4       "(1) The licensee was a designated physician and surgeon or podiatrist serving in the  
5 absence of the patient's physician and surgeon or podiatrist, as the case may be, and if the drugs  
6 were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return  
7 of his or her practitioner, but in any case no longer than 72 hours.

8       "(2) The licensee transmitted the order for the drugs to a registered nurse or to a licensed  
9 vocational nurse in an inpatient facility, and if both of the following conditions exist:

10       "(A) The practitioner had consulted with the registered nurse or licensed vocational nurse  
11 who had reviewed the patient's records.

12       "(B) The practitioner was designated as the practitioner to serve in the absence of the  
13 patient's physician and surgeon or podiatrist, as the case may be.

14       "(3) The licensee was a designated practitioner serving in the absence of the patient's  
15 physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized  
16 the patient's records and ordered the renewal of a medically indicated prescription for an amount  
17 not exceeding the original prescription in strength or amount or for more than one refill.

18       "(4) The licensee was acting in accordance with Section 120582 of the Health and Safety  
19 Code."

20       8.     Section 2266 of the Code states: "The failure of a physician and surgeon to maintain  
21 adequate and accurate records relating to the provision of services to their patients constitutes  
22 unprofessional conduct."

23       9.     Section 725 of the Code states:

24       "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering  
25 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated  
26 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of  
27 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,  
28



1 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language  
2 pathologist, or audiologist.

3 "(b) Any person who engages in repeated acts of clearly excessive prescribing or  
4 administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of  
5 not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by  
6 imprisonment for a term of not less than 60 days nor more than 180 days, or by both that fine and  
7 imprisonment.

8 "(c) A practitioner who has a medical basis for prescribing, furnishing, dispensing, or  
9 administering dangerous drugs or prescription controlled substances shall not be subject to  
10 disciplinary action or prosecution under this section.

11 "(d) No physician and surgeon shall be subject to disciplinary action pursuant to this section  
12 for treating intractable pain in compliance with Section 2241.5."

13 10. Section 2051 of the Code states:

14 "The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or  
15 upon human beings and to sever or penetrate the tissue of human beings and to use any and all  
16 other methods in the treatment of diseases, injuries, deformities, and other physical and mental  
17 conditions."

18 11. Section 2052 of the Code states:

19 "(a) Notwithstanding Section 146, any person who practices or attempts to practice, or who  
20 advertises or holds himself or herself out as practicing, any system or mode of treating the sick or  
21 afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment,  
22 blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition  
23 of any person, without having at the time of so doing a valid, unrevoked, or unsuspended  
24 certificate as provided in this chapter, or without being authorized to perform the act pursuant to a  
25 certificate obtained in accordance with some other provision of law, is guilty of a public offense,  
26 punishable by a fine not exceeding ten thousand dollars (\$10,000), by imprisonment pursuant to  
27 subdivision (h) of Section 1170 of the Penal Code, by imprisonment in a county jail not  
28 exceeding one year, or by both the fine and either imprisonment.

1       "(b) Any person who conspires with or aids or abets another to commit any act described in  
2 subdivision (a) is guilty of a public offense, subject to the punishment described in that  
3 subdivision.

4       "(c) The remedy provided in this section shall not preclude any other remedy provided by  
5 law."

6       12. Section 2241 of the Code states:

7       "(a) A physician and surgeon may prescribe, dispense, or administer prescription drugs,  
8 including prescription controlled substances, to an addict under his or her treatment for a purpose  
9 other than maintenance on, or detoxification from, prescription drugs or controlled substances.

10       "(b) A physician and surgeon may prescribe, dispense, or administer prescription drugs or  
11 prescription controlled substances to an addict for purposes of maintenance on, or detoxification  
12 from, prescription drugs or controlled substances only as set forth in subdivision (c) or in Sections  
13 11215, 11217, 11217.5, 11218, 11219, and 11220 of the Health and Safety Code. Nothing in this  
14 subdivision shall authorize a physician and surgeon to prescribe, dispense, or administer  
15 dangerous drugs or controlled substances to a person he or she knows or reasonably believes is  
16 using or will use the drugs or substances for a nonmedical purpose.

17       "(c) Notwithstanding subdivision (a), prescription drugs or controlled substances may also  
18 be administered or applied by a physician and surgeon, or by a registered nurse acting under his  
19 or her instruction and supervision, under the following circumstances:

20       "(1) Emergency treatment of a patient whose addiction is complicated by the presence of  
21 incurable disease, acute accident, illness, or injury, or the infirmities attendant upon age.

22       "(2) Treatment of addicts in state-licensed institutions where the patient is kept under  
23 restraint and control, or in city or county jails or state prisons.

24       "(3) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety  
25 Code.

26       "(d)(1) For purposes of this section and Section 2241.5, "addict" means a person whose  
27 actions are characterized by craving in combination with one or more of the following:

28       "(A) Impaired control over drug use.

1       "(B) Compulsive use.

2       "(C) Continued use despite harm.

3       "(2) Notwithstanding paragraph (1), a person whose drug-seeking behavior is primarily due  
4 to the inadequate control of pain is not an addict within the meaning of this section or Section  
5 2241.5."

6       13.   Section 2264 of the Code states:

7       "The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person  
8 or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any  
9 other mode of treating the sick or afflicted which requires a license to practice constitutes  
10 unprofessional conduct."

11       14.   Section 2286 of the Code states:

12       "It shall constitute unprofessional conduct for any licensee to violate, to attempt to violate,  
13 directly or indirectly, to assist in or abet the violation of, or to conspire to violate any provision or  
14 term of Article 18 (commencing with Section 2400), of the Moscone-Knox Professional  
15 Corporation Act (Part 4 commencing with Section 13400) of Division 3 of Title 1 of the  
16 Corporations Code), or of any rules and regulations duly adopted under those laws."

17       15.   Section 2400 of the Code states:

18       "Corporations and other artificial legal entities shall have no professional rights, privileges,  
19 or powers. However, the Division of Licensing may in its discretion, after such investigation and  
20 review of such documentary evidence as it may require, and under regulations adopted by it, grant  
21 approval of the employment of licensees on a salary basis by licensed charitable institutions,  
22 foundations or clinics, if no charge for professional services rendered patients is made by any  
23 such institution, foundation, or clinic."

24       16.   Section 3502.1 of the Code states in pertinent part:

25       "(a) (1) A supervising physician and surgeon who delegates authority to issue a drug order  
26 to a physician assistant may limit this authority by specifying the manner in which the physician  
27 assistant may issue delegated prescriptions."  
28

“(2) Each supervising physician and surgeon who delegates the authority to issue a drug order to a physician assistant shall first prepare and adopt, or adopt, a written, practice specific, formulary and protocols that specify all criteria for the use of a particular drug or device, and any contraindications for the selection...”

### FIRST CAUSE FOR DISCIPLINE

(Administration of Medication by Physician Assistant-Lack of Supervision- 3 patients)

17. Respondent is subject to disciplinary action under section 3502.1, subdivision (a) (1) (2), of the Code for failing to adequately supervise physician assistant Andrew Sajo's care and treatment of patients L.M., G.W., and S.F.<sup>1</sup> The circumstances are as follows:

### Patient L.M.

18. Patient L.M. (or “patient”) is a fifty-seven-year-old female who treated at Perez Medical Clinic (clinic) from about May 2012 through December 2014.<sup>2</sup> The clinic is owned and managed by Yo. P., a layperson with no medical training. Yo. P. is in charge of hiring and employment issues and billing at the clinic.<sup>3</sup> Per the clinic’s Delegation of Services Agreement (Agreement),<sup>4</sup> Respondent was designated as one of the supervising physicians for physician assistant (P.A.) Andrew Sajo, who was also hired by Yo. P.<sup>5</sup>

19. Records indicate that from June 2012 to November 2013, approximately thirty prescriptions were written to L.M., including Hydrocodone and Alprazolam,<sup>6</sup> which were filled

<sup>1</sup> The patients are identified by initial to protect their privacy.

<sup>2</sup> These are only approximate dates, per the progress notes which were available for review. This patient may have treated at this clinic with other individuals prior to and after these dates. Most of the visits after June 2012 were with P.A. Sajo. It should be noted that there is no documentation in the progress notes that P.A. Sajo ever discussed the patient's prescriptions or any other aspects of care of the patient with Respondent or any other supervising physician.

<sup>3</sup> In documents filed with the California Secretary of State, Respondent is listed as the clinic's Chief Executive Officer (CEO), and Yo. P., Respondent's mother, is listed as the clinic's Secretary.

<sup>4</sup> The Agreement in which Respondent agreed to supervise P.A. Sajo was dated May 10, 2013, despite the fact that Respondent was working out of state at the time, and did not begin working at the clinic until approximately July 2014, when Respondent returned to California to work at the clinic, primarily on a part-time basis.

<sup>5</sup> Respondent was not involved in the hiring of P.A. Sajo, nor was Respondent involved in the hiring of Jorge Galindo, M.D., who was also hired by Yo. P.

<sup>6</sup> Dangerous drugs with potentially addictive traits and side effects, if used improperly and/or overused.

1 nearly monthly. Most of these prescriptions were written by Andrew Sajo, P.A., and a few were  
2 refilled by Jorge Galindo, M.D.

3 Patient G.W.

4 20. Patient G.W. (or "patient") is a sixty-five-year-old male who treated at Perez  
5 Medical Clinic (clinic) from about October 2012 through December 2014.<sup>7</sup> Records indicate that  
6 from June 2012 to November 2013, approximately thirty prescriptions were written for the patient  
7 including Hydrocodone, Carisoprodol (Soma), Clonazepam (Klonopin), Diazepam, and  
8 Lorazepam.<sup>8</sup>

9 Patient S.F.

10 21. Patient S.F. (S.F. or "patient"), who was an undercover Board investigator, was  
11 treated by P.A. Andrew Sajo at the clinic on October 14, 2014. On said date, after a brief  
12 evaluation, P.A. Sajo wrote S.F. a prescription for Norco and Lisinopril, after S.F. claimed that he  
13 needed pain medication (specifically Norco) as a result of exercise.

14 22. Respondent, P.A. Sajo, and Jorge Galindo, M.D., generally worked on separate days,  
15 when the others were absent.<sup>9</sup>

16 23. Respondent departed from the standard of care in failing to adequately supervise P.A.  
17 Andrew Sajo as follows:

18 (a) In reviewing the progress notes for said patients, there is no evidence that Respondent  
19 or any other physician was supervising P.A. Andrew Sajo.

20 (b) Never once is there documentation of a discussion with PA Sajo regarding the  
21 patients' prescriptions, or any other aspects of the "care" given.

22 (c) There were no specific protocols or formularies for P.A. Sajo to follow.

23 <sup>7</sup> These are only approximate dates, per the progress notes which were available for  
24 review. This patient may have treated at this clinic with other individuals prior to and after these  
25 dates. It should be noted that there is no documentation in the progress notes that P.A. Sajo ever  
discussed the patient's prescriptions or any other aspects of care of the patient with Respondent or  
any other supervising physician.

26 <sup>8</sup> Dangerous drugs with potentially addictive traits and side effects, if used improperly  
and/or overused.

27 <sup>9</sup> Since Respondent started working at the clinic beginning in the summer of 2014, she  
28 could not recall any emergencies/instances in which PA Sajo called her [i.e. Respondent] or Dr.  
Galindo regarding the care and treatment PA Sajo provided to patients L.M., G.W., and S.F.

1 (d) There was no documentation that Respondent or any other physician reviewed the  
2 patients' medical record.

3 SECOND CAUSE FOR DISCIPLINE

4 (Aiding and Abetting the Unlicensed Practice of Medicine)

5 24. Respondent is subject to disciplinary action under Code sections 2052, 2234,  
6 subdivision (a), 2264, 2286, and 2400 in that she aided and abetted the unlicensed practice of  
7 medicine by Yo. P., a layperson who owned a business that offered and provided medical  
8 services.

9 25. The facts and circumstances in the First Cause for Discipline above, are incorporated  
10 by reference as if set forth in full herein.

11 THIRD CAUSE FOR DISCIPLINE

12 (Prescribing Without Exam/Indication- 3 patients-Failure to Supervise)

13 26. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
14 Respondent is subject to disciplinary action under section 2242 of the Code, in that Respondent  
15 failed to adequately supervise P.A. Sajo, who was prescribing dangerous drugs to patients L.M.,  
16 G.W., and S.F. without an appropriate prior examination or medical indication therefor.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Excessive Prescribing- 3 Patients-Failure to Supervise)

19 27. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
20 Respondent is subject to disciplinary action under section 725 of the Code, in that Respondent  
21 failed to adequately supervise P.A. Sajo, who excessively prescribed dangerous drugs to patients  
22 L.M., G.W., and S.F.

23 FIFTH CAUSE FOR DISCIPLINE

24 (Inadequate Records- 3 Patients)

25 28. By reason of the facts and allegations set forth in the First Cause for Discipline above,  
26 Respondent is subject to disciplinary action under section 2266 of the Code, in that Respondent  
27 failed to maintain adequate and accurate records of her care and treatment of patients L.M.,  
28 G.W., and S.F.

1 SIXTH CAUSE FOR DISCIPLINE

2 (Prescribing to an Addict-Patient G.W.-Failure to Supervise)

3 29. Respondent is subject to disciplinary action under section 2241 of the Code in that  
4 Respondent failed to adequately supervise P.A. Sajo, who prescribed controlled substances to  
5 G.W., a patient who had signs of substance abuse/dependency.<sup>10</sup>

6 30. The facts and circumstances set forth in the First Cause for Discipline above, are  
7 incorporated by reference as if set forth in full herein.

8 PRAYER

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
10 and that following the hearing, the Medical Board of California issue a decision:

11 1. Revoking or suspending Physician's and Surgeon's Certificate Number A119819,  
12 issued to Yanira Perez, M.D.;

13 2. Revoking, suspending or denying approval of Yanira Perez, M.D.'s authority to  
14 supervise physician assistants, pursuant to section 3527 of the Code;

15 3. Ordering Yanira Perez, M.D., if placed on probation, to pay the Board the costs of  
16 probation monitoring; and

17 4. Taking such other and further action as deemed necessary and proper.

18  
19 DATED: May 18, 2016

  
KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
Department of Consumer Affairs  
State of California  
Complainant

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25  
26  
27 <sup>10</sup> Based on the chart review, as far back as October 29, 2012, it was known that patient  
28 G.W. was a drug addict, having received treatment from a Methadone Clinic.